

REMARKS

By the foregoing amendment, features of original claims 1 and 2 have been interchanged. Additionally, it has been specified that at least one of the substances is a solid which can be obtained, for instance, by irradiating the resin to solidify it as recited in claim 8.

The rejection of claims 1-7 and 9-13 under 35 U.S.C. 112, first and second paragraph, is respectfully traversed.

With respect to claim 1, it has been indicated that merely claiming “two substances” is vague, indefinite and functional. In response, Applicants respectfully submit that there is nothing intrinsically wrong by designating something by a particular characteristic rather than what it is. See, e.g. *In re Swinehart*, 169 USPQ 226 (CCPA 1971); *In re Anderson*, 176 USPQ 331 (CCPA 1973). In the context of the present application, the essential characteristic is that there are two substances having different dielectric constants periodically distributed in a three dimensional space and that essential characteristic is recited in claim 1. Nevertheless to further expedite allowance of this case, claim 1 has been amended to specify at least one of the substances is a solid.

With respect to claims 4 and 10, it should be noted that neither of these claims requires that the conductive film be on both substances at a time that one of those substances is air, the basis for the asserted vagueness. These claims only require an electroless plating film be on the surface of at least one of the substances, and obviously that substance would not be air. While it is proper to give claims their broadest readable interpretation, construing the claims to include something which is impossible is not

reasonable. Thus, the claims cannot be construed in the manner that gives rise to the asserted vagueness or lack of clarity.

Finally, with respect to claim 7, “air” is clearly definite and there is no need to define the ranges of chemicals constituting air since that is well known to one of ordinary skill in the art. Further, claim 7 does not imply air is being shaped but rather that it is, as stated, disposed so as to have a diamond shape. For instance, if the other substance is a solid having a diamond shaped hole and air is in that hole, the air is disposed in a diamond shape, as recited in this claim.

Withdrawal of the rejections under 35 U.S.C. § 112 is respectfully solicited.

The rejection of claims 1-7 and 9-13 under 35 U.S.C. § 102 over Kabushiki is respectfully traversed.

The inclusion of claim 7 and 13 in this rejection based on Section 102 on the grounds that a person skilled in the art would have found the features of these claims “obvious” is clearly improper and not a valid basis for rejection, even if there had been any basis for deeming the shape “a matter of choice” (which there is not).

With regard to the novelty rejection, it is noted that there is an absence of any assertion that the feature of original claim 2 (now recited in claim 1) is disclosed in this reference. Applicants agree since a review has not revealed any description of this feature in the reference nor has any basis for asserting that the missing feature is obvious been found. Since a characteristic of the structure recited in the independent claim is absent, a novelty rejection is untenable. Since inclusion of the characteristic is not obvious, a

rejection under Section 103 would have been untenable, if one had been made.

Accordingly, it is respectfully submitted the rejection should be withdrawn.

Claims 1-7 and 9-13 were also rejected under 35 U.S.C. 102 over Kawakami. This rejection is also traversed since the reference suffers from the all of the same deficiencies as the other reference.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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